

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-sixth Legislature
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CHAPTER 89
HOUSE BILL 2043

AN ACT

AMENDING SECTIONS 32-3601, 32-3605, 32-3612, 32-3617 AND 32-3637, ARIZONA
REVISED STATUTES; RELATING TO THE BOARD OF APPRAISAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-3601, Arizona Revised Statutes, is amended to
3 read:

4 32-3601. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Appraisal" or "real estate appraisal" means a statement
7 independently and impartially prepared by an individual setting forth an
8 opinion as to the market value of real property as of a specific date and
9 supported by the presentation and analysis of relevant market information.

10 2. "Appraisal assignment" means an engagement for which a real estate
11 appraiser is employed or retained to act, or would be perceived by third
12 parties or the public in acting, as a disinterested third party in rendering
13 an unbiased analysis, opinion or conclusion relating to the nature, quality,
14 value or utility of specified interests in or aspects of identified real
15 estate.

16 3. "Appraisal foundation" means the appraisal foundation incorporated
17 as an Illinois not-for-profit corporation on November 30, 1987.

18 4. "Appraisal report" means any communication, written or oral, of an
19 appraisal.

20 5. "Appraisal review" means the act of reviewing or the report that
21 follows a review of an appraisal assignment or appraisal report in which a
22 real estate appraiser forms an opinion as to the adequacy and appropriateness
23 of the report being reviewed.

24 6. "Appraisal subcommittee" means the subcommittee of the federal
25 financial institutions examination council created pursuant to 12 United
26 States Code section 3310 and chapter 34A, as amended.

27 7. "APPRAISER QUALIFICATIONS BOARD" MEANS THE APPRAISER QUALIFICATIONS
28 BOARD APPOINTED BY THE BOARD OF TRUSTEES OF THE APPRAISAL FOUNDATION TO
29 ESTABLISH THE MINIMUM EDUCATION, EXPERIENCE AND EXAMINATION REQUIREMENTS FOR
30 REAL ESTATE APPRAISERS.

31 ~~7.~~ 8. "Board" means the state board of appraisal.

32 ~~8.~~ 9. "Certified appraisal" or "certified appraisal report" means an
33 appraisal or appraisal report given or signed and certified as such by a
34 state certified appraiser.

35 ~~9.~~ 10. "Complex one to four family residential property UNITS" means
36 property ~~which~~ THAT is atypical for the marketplace. Atypical factors may
37 include architectural style, age of improvements, size of improvements, size
38 of lot, neighborhood land use, potential environmental hazard liability,
39 leasehold interests, limited readily available comparable sales data or other
40 unusual factors.

41 ~~10.~~ 11. "Course review" means the act of the board reviewing course
42 materials to form an opinion as to the adequacy and appropriateness of the
43 course for continuing education as prescribed in section 32-3625 in
44 accordance with the appraiser qualifications board and this chapter.

1 ~~11.~~ 12. "Federal financial institutions examination council" means
2 that agency of the federal government created pursuant to 12 United States
3 Code chapters 34 and 34A, as amended.

4 ~~12.~~ 13. "Federally related transaction" means any real estate related
5 financial transaction that a federal financial institution's regulatory
6 agency or the resolution trust corporation engages in, contracts for or
7 regulates and that requires an appraisal.

8 ~~13.~~ 14. "Licensed appraisal" or "licensed appraisal report" means an
9 appraisal or appraisal report given or signed by a state licensed appraiser.

10 ~~14.~~ 15. "Property tax agent" ~~has the same meaning as prescribed in~~
11 ~~section 32-3651.~~ MEANS AN INDIVIDUAL WHO IS DESIGNATED BY A PERSON OR IS AN
12 EMPLOYEE OF AN ENTITY DESIGNATED AS AN AGENT PURSUANT TO SECTION 42-16001,
13 WHO ACTS ON BEHALF OF A PERSON WHO OWNS, CONTROLS OR POSSESSES PROPERTY
14 VALUED BY A COUNTY ASSESSOR AND WHO RECEIVES A FEE FOR THE ANALYSIS OF ANY
15 MATTER RELATING TO THE REVIEW OF THE VALUATION OF THE PERSON'S PROPERTY
16 BEFORE THE ASSESSOR. PROPERTY TAX AGENT DOES NOT INCLUDE A PERSON WHO IS
17 ADMITTED TO PRACTICE LAW IN THIS STATE, AN EMPLOYEE OF THE PERSON OWNING,
18 CONTROLLING OR POSSESSING THE PROPERTY OR AN EMPLOYEE OF AN ENTITY DESIGNATED
19 PURSUANT TO SECTION 42-16001, IF THE EMPLOYEE IS PERFORMING A SECRETARIAL,
20 CLERICAL OR ADMINISTRATIVE SUPPORT FUNCTION.

21 ~~15.~~ 16. "Real estate" means an identified parcel or tract of land,
22 including improvements, if any.

23 ~~16.~~ 17. "Real estate related financial transaction" means any
24 transaction involving the sale, lease, purchase, investment in or exchange
25 of real property, including interests in property or the financing of
26 property, the refinancing of real property or interests in real property and
27 the use of real property or interests in property as security for a loan or
28 investment including mortgage-backed securities.

29 ~~17.~~ 18. "Real property" means one or more defined interests, benefits
30 and rights inherent in the ownership of real estate.

31 ~~18.~~ 19. "Review appraiser" means a person who engages in the activity
32 of reviewing and evaluating the appraisal work of others from the perspective
33 of an appraiser, generally for compensation as a separate skill. This
34 includes the function of reviewing an appraisal report or a file memorandum
35 setting forth the results of the review process.

36 ~~19.~~ 20. "Standards of professional appraisal practice" means the
37 uniform standards of professional appraisal practice adopted by the board.

38 ~~20.~~ 21. "State licensed or state certified appraiser" means a person
39 who develops and communicates appraisals and who holds a current, valid
40 license or certificate issued to him under the provisions of this chapter.

41 ~~21.~~ 22. "Valuation" means an estimate of the value of property.

42 Sec. 2. Section 32-3605, Arizona Revised Statutes, is amended to read:

43 32-3605. State board of appraisal; duties

44 A. The board shall adopt rules in aid or in furtherance of this
45 chapter.

- 1 B. The STATE board OF APPRAISAL shall:
- 2 1. In prescribing standards of professional appraisal practice, adopt
- 3 standards that at a minimum are equal to the standards prescribed by the
- 4 ~~appraisal subcommittee~~ APPRAISER QUALIFICATIONS BOARD.
- 5 2. In prescribing criteria for certification, adopt criteria that at
- 6 a minimum are equal to the minimum criteria for certification ~~issued by the~~
- 7 ~~appraiser qualification board of appraisal foundation~~ and adopted by the
- 8 appraisal subcommittee.
- 9 3. In prescribing criteria for licensing, adopt criteria that at a
- 10 minimum are equal to the minimum criteria for licensing adopted by the
- 11 appraisal subcommittee.
- 12 4. Further define by rule with respect to state licensed or state
- 13 certified appraisers appropriate and reasonable educational experience,
- 14 appraisal experience and equivalent experience that meets the statutory
- 15 requirement of this chapter.
- 16 5. Establish the examination specifications for state certified
- 17 appraisers, provide or procure appropriate examination questions and answers,
- 18 administer examinations and establish procedures for grading examinations
- 19 consistent with and equivalent to the ~~standards for examination prescribed~~
- 20 ~~or endorsed by the appraiser qualification board of the appraisal foundation~~
- 21 ~~and~~ CRITERIA adopted by the appraisal subcommittee.
- 22 6. Establish the examination specifications for state licensed
- 23 appraisers, provide or procure appropriate examination questions and answers,
- 24 administer examinations and establish procedures for grading examinations
- 25 consistent with and equivalent to the ~~standards~~ CRITERIA adopted by the
- 26 appraisal subcommittee.
- 27 7. Establish administrative procedures for approving or disapproving
- 28 applications for licensure and certification and issuing licenses and
- 29 certificates.
- 30 8. Define by rule, with respect to state licensed and certified
- 31 appraisers, the continuing education requirements for the renewal of licenses
- 32 or certificates that satisfy the statutory requirements provided in this
- 33 chapter.
- 34 9. Periodically review the requirements for the development and
- 35 communication of appraisals provided in this chapter and adopt rules
- 36 explaining and interpreting the requirements.
- 37 10. Define and explain by rule each stage and step associated with the
- 38 administrative procedures for the disciplinary process pursuant to this
- 39 chapter including:
- 40 (a) Prescribing minimum criteria for accepting a complaint against a
- 41 licensed or certified appraiser.
- 42 (b) Defining the process and procedures used in investigating the
- 43 allegations of the complaint.

1 (c) Defining the process and procedures used in hearings on the
2 complaint, including a description of the rights of the board and any person
3 who is alleged to have committed the violation.

4 (d) Establishing criteria to be used in determining the appropriate
5 actions for violations.

6 11. Communicate information that is useful to the public and appraisers
7 relating to actions for violations.

8 12. Censure, suspend and revoke licenses and certificates pursuant to
9 the disciplinary proceedings provided for in section 32-3631.

10 13. ~~Annually~~ AT LEAST MONTHLY transmit to the appraisal subcommittee
11 a roster listing individuals who have received a state certificate or license
12 in accordance with this chapter.

13 14. Report on the disposition of any matter referred by the appraisal
14 subcommittee or any other federal agency or instrumentality or federally
15 recognized entity reporting any action of a state licensed or state certified
16 appraiser that is contrary to this chapter.

17 15. Make a determination and finding if there exists a scarcity of
18 state certified or state licensed appraisers to perform appraisals in
19 connection with federally related transactions in this state and issue
20 resident temporary licenses and certificates pursuant to section 32-3626.

21 16. Transmit the annual registry fee collected pursuant to section
22 32-3607 to the federal financial institutions examination council.

23 17. Establish the fees in accordance with the limits established in
24 section 32-3607.

25 18. Perform such other functions and duties as may be necessary to
26 carry out this chapter.

27 C. The board may employ an executive director and other personnel and
28 designate their duties. The executive director shall serve at the pleasure
29 of the board.

30 D. The executive director shall not change or amend actions of the
31 board.

32 Sec. 3. Section 32-3612, Arizona Revised Statutes, is amended to read:
33 32-3612. Classifications of licensure and certification

34 A. The following classifications of state licensed real estate
35 appraisers and state certified real estate appraisers are established:

36 1. State certified general real estate appraisers consisting of those
37 persons meeting the requirements for certification relating to the appraisal
38 or appraisal review of all types of real property.

39 2. State certified residential real estate appraisers consisting of
40 those persons meeting the requirements for certification relating to the
41 appraisal or appraisal review of ~~up to twelve family~~ ONE TO FOUR residential
42 units WITHOUT REGARD TO VALUE OR COMPLEXITY.

43 3. State licensed real estate appraisers consisting of those persons
44 meeting the requirements for licensing relating to appraisal or appraisal
45 review ~~for all nonfederally related transactions and federally related~~

1 ~~transactions involving~~ OF NONCOMPLEX one to four family residential ~~real~~
2 ~~property~~ UNITS having a value of less than one million dollars and ~~not~~
3 ~~involving~~ complex one to four family residential ~~real property~~ UNITS HAVING
4 A VALUE OF LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS.

5 B. Notwithstanding section 32-3602:

6 1. All federally related transactions involving property with a value
7 equal to or greater than one million dollars and complex one to four family
8 residential real property shall be appraised by a state certified appraiser.

9 2. All federally related transactions not requiring a state certified
10 appraiser may be appraised by either a state certified or state licensed
11 appraiser.

12 C. All nonfederally related transactions may be appraised either by
13 a state certified or a state licensed appraiser.

14 Sec. 4. Section 32-3617, Arizona Revised Statutes, is amended to read:
15 32-3617. Nonresident licensure or certification

16 A. Every applicant for licensure or certification under this chapter
17 who is not a resident of this state shall submit, with the application for
18 licensure or certification, an irrevocable consent that service of process
19 on him THE APPLICANT may be made by delivery of the process to the secretary
20 of state if, in an action against the applicant in a court of this state
21 arising out of the applicant's activities as a state licensed or state
22 certified appraiser, the plaintiff cannot effect, in the exercise of due
23 diligence, personal service on the applicant.

24 B. A nonresident of this state who has complied with subsection A may
25 obtain a license or certificate as a state licensed or state certified
26 appraiser by conforming to all of the requirements of this chapter relating
27 to state licensed or state certified appraisers.

28 C. A nonresident of this state who is licensed or certified in another
29 state ~~whose requirements for licensing and certification of appraisers have~~
30 ~~been approved by the appraisal subcommittee~~ is entitled to a temporary
31 license or certification from the board, which shall be valid UNTIL THE
32 COMPLETION OF EACH APPRAISAL ASSIGNMENT BUT NOT for a period of MORE THAN one
33 year from the date of issuance, if:

34 1. The properties to be appraised are federally related.

35 2. The nonresident appraiser's business in this state is of a
36 temporary nature.

37 3. The nonresident appraiser registers APPLIES with the board on forms
38 prepared by the board.

39 4. The nonresident appraiser pays the temporary license or
40 certification fee required by the board.

41 Sec. 5. Section 32-3637, Arizona Revised Statutes, is amended to read:
42 32-3637. Retention of records; definition

43 A. A state licensed or state certified appraiser shall retain for
44 ~~three years originals or true copies of all written contracts engaging his~~
45 ~~services for appraisal work and all reports and supporting data assembled and~~

1 formulated by the appraiser in preparing the reports A WORK FILE FOR AT LEAST
2 FIVE YEARS AFTER PREPARATION OF THE WORK FILE OR AT LEAST TWO YEARS AFTER
3 FINAL DISPOSITION OF ANY JUDICIAL PROCEEDING IN WHICH THE APPRAISER PROVIDED
4 TESTIMONY RELATED TO THE WORK FILE, WHICHEVER PERIOD OF TIME IS GREATER.

5 ~~B. This three year period for retention of records is applicable to~~
6 ~~each engagement of the services of the appraiser and commences on the date~~
7 ~~of the submittal of the appraisal to the client unless, within this three~~
8 ~~year period, the appraiser is notified that the appraisal or report is~~
9 ~~involved in litigation, in which event the three year period for the~~
10 ~~retention of records commences on the date of the final disposition of the~~
11 ~~litigation.~~

12 B. A STATE LICENSED OR STATE CERTIFIED APPRAISER SHALL DO EITHER OF
13 THE FOLLOWING:

14 1. HAVE CUSTODY OF THE APPRAISER'S WORK FILE.

15 2. MAKE APPROPRIATE WORK FILE RETENTION, ACCESS AND RETRIEVAL
16 ARRANGEMENTS WITH THE PARTY HAVING CUSTODY OF THE WORK FILE.

17 C. The board may inspect all records required to be maintained under
18 this chapter by the state licensed or state certified appraiser on reasonable
19 notice to the appraiser.

20 D. FOR THE PURPOSES OF THIS SECTION, "WORK FILE" INCLUDES
21 DOCUMENTATION NECESSARY TO SUPPORT AN APPRAISER'S ANALYSES, OPINIONS AND
22 CONCLUSIONS.

APPROVED BY THE GOVERNOR APRIL 16, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2004.